

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:17CR118
	§	Judge Crone
HOWARD GREGG DIAMOND (1)	§	

ELEMENTS OF THE OFFENSE

The defendant, **Howard Gregg Diamond**, is charged in Count One of the Second Superseding Indictment with a violation of 21 U.S.C. § 846, Conspiracy to Possess with the Intent to Distribute and Dispense and Distributing and Dispensing of Controlled Substances, and Count Nine of the Second Superseding Indictment with a violation of 18 U.S.C. §§ 1347 and 2, Health Care Fraud and Aiding and Abetting. The essential elements which must be proved beyond a reasonable doubt in order to establish a violation of that section are as follows:

Count One

1. That you and one or more persons, in some way or manner made an agreement to commit the crime charged in the Second Superseding Indictment, that is, to possess with intent to distribute the following controlled substances: fentanyl, morphine, oxycodone, oxymorphone, methadone, hydrocodone, hydromorphone, alprazolam, zolpidem, carisoprodol, and diazepam;
2. That you knew the unlawful purpose of the agreement;

3. That you joined in the agreement willfully, that is, with the intent to further its unlawful purpose; and

4. That the overall scope of the conspiracy involved fentanyl, morphine, oxycodone, oxymorphone, methadone, hydrocodone, hydromorphone, alprazolam, zolpidem, carisoprodol, and diazepam.

5. That you knew or reasonably should have known that the scope of the conspiracy involved fentanyl, morphine, oxycodone, oxymorphone, methadone, hydrocodone, hydromorphone, alprazolam, zolpidem, carisoprodol, and diazepam.

Count Nine

1. That you knowingly and willfully executed a scheme or artifice to defraud a health care benefit program, that is Medicare, or to obtain money or property from a health care benefit program, that is Medicare, by means of false or fraudulent pretenses, representations, or promises in connection with the delivery of or payment for health care benefits, items, or services;

2. That you acted with a specific intent to defraud a health care benefit program;

3. That the false or fraudulent pretenses, representations, or promises that you made were material; and

4. That the operation of the health care benefit program affected interstate commerce.

Respectfully submitted,

JOSEPH D. BROWN
UNITED STATES ATTORNEY

/s/_____
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed via electronic filing to
defense counsel on September 27, 2018.

/s/_____
Heather Rattan